A. NEW DEVELOPMENTS IN IRC 501(c)(5) AND IRC 501(c)(6)

1. Introduction

The purpose of this section is to provide some background and an update in the area of IRC 501(c)(5) labor, agricultural, or horticultural organizations, and in the area of IRC 501(c)(6) business leagues. Business leagues and other organizations described in IRC 501(c)(6) were discussed extensively in the 1981 CPE text and in the 1979 ATRI text. In addition, the 1986 CPE text contained a topic on IRC 501(c)(6) insurance exemption issues and the 1987 CPE text contained a section which discussed benefits provided by IRC 501(c)(5) labor organizations.

2. Background

A. Labor, Agricultural or Horticultural Organizations

Labor, agricultural, or horticultural organizations are exempt from taxation under IRC 501(a) as described in IRC 501(c)(5). These organizations were first made exempt from taxation under the Corporation Excise Tax Act of 1909. They have continued to be exempt under every income tax act from 1913 to the present. The language used has also remained unchanged, referring simply to "labor, agricultural, or horticultural organizations".

No specific requirements for exemption are given in IRC 501(c)(5). However, the regulations do impose two requirements. First, Reg. 1.501(c)(5)-1(a)(1) prohibits the inurement of net income to the benefit of any member. Although this prohibition is not found in the statute, inurement has been prohibited under the regulations pertaining to this exemption during various reenactments. When a statute is reenacted in substantially the same form, Congress can generally be presumed to approve of existing regulations unless it indicates otherwise.

The regulations also require that IRC 501(c)(5) organizations have as their purposes:

1. the betterment of the conditions of those engaged in labor, agricultural, or horticultural pursuits;

2. the improvement of the grade of their products; and,

3. the development of a higher degree of efficiency in their respective occupations.

These requirements are stated broadly and have been broadly interpreted. Although an IRC 501(c)(5) organization must be organized and operated for these three purposes, there is no strict organizational test as there is for IRC 501(c)(3) organizations. In Campbell v. Big Spring Cowboy Reunion, 210 F.2d 143 (5th Cir. 1954), the court held that an agricultural organization could qualify for exemption even though its corporate charter gave it powers too broad for such exemption so long as its actual activities had always been in furtherance of the permitted purposes.

The term "labor organization" has been broadly construed by the courts and the Service. While the term includes labor unions, it is not restricted to labor unions. Instead, the term is commonly defined as an association of workers who have combined to protect or promote the interests of the members by bargaining collectively with their employers to secure better working conditions, wages, and similar benefits. "Similar benefits" include the provision of benefits traditionally provided by labor organizations, such as strike and lockout benefits, as well as death, sick, accident, and similar benefits. Labor organizations are exempt from income tax because, among other reasons, they operate in part as mutual benefit organizations. Accordingly, payment of the benefits listed by a labor organization to its members or their families from funds contributed by its members, if made under a plan which has as its object the betterment of the conditions of the members, does not constitute inurement and does not preclude exemption.

Generally, "agricultural and horticultural activities" are those involved in the art or science of cultivating the ground, especially in fields or large quantities, including the preparation of the soil, the planting of seeds, the raising and harvesting of crops or aquatic resources, and the rearing, feeding, and management of livestock. See IRC 501(g). Examples of agricultural pursuits include dairy farming, plantations, ranches, nurseries, greenhouses, the cultivation of underwater vegetation, fish farming, and the raising of poultry, livestock, and fur-bearing animals.

B. Business Leagues

The federal income tax exemption for business leagues originated with the 1913 Revenue Act. This act exempted business leagues, chambers of commerce, and boards of trade from taxation. Two later revenue acts added real estate boards and professional football leagues to complete the list now found in IRC 501(c)(6).

The categories listed in IRC 501(c)(6) are not defined in that subsection or elsewhere in the Code. However, "business league" is defined in Reg. 1.501(c)(6)-1 as an association of persons having a common business interest, whose purpose is to promote the common business interest and not to engage in a regular business of a kind ordinarily carried on for profit. Its activities are directed to the improvement of business conditions of one or more lines of business rather than the performance of particular services for individual persons. These regulations have retained the same form since 1928 and, similar to the regulations promulgated under IRC 501(c)(5), can be presumed to have the effect of law by virtue of successive reenactments of the statutory provision.

3. Recent Issues Affecting IRC 501(c)(5) Exempt Status

A. Labor Organizations

As stated previously, in general, labor organizations include those that have as their principal purpose the representation of employees in such matters as wages, hours of labor, economic benefits, and the general fostering of matters affecting the working conditions of their members. The activities of such organizations must be those commonly or historically recognized as characteristic of labor organizations, or be closely related and necessary to accomplishing the principal purposes of exempt labor organizations.

However, in numerous instances the Service has recognized as described under IRC 501(c)(5) organizations that do not directly represent employees. In such instances, the organizations have been held exempt because they were conducting activities appropriate to exempt labor organizations. The key word here is "appropriate". Thus, the activities of the organization claiming IRC 501(c)(5) status should be examined to determine that they are "appropriate to" exempt labor organizations. For example, the Service has indicated that organizations conducting the following various activities are exempt: a fund receiving payments pursuant to a collective bargaining agreement and disbursing such payment to various employee benefit funds associated with the parent labor union; a hardship fund; a multi-employer stewardship system; maintenance and operation of a dispatch hall; a pension trust funded solely by contributions from union members;

vacation resort; publication of a labor newspaper; strike and lock-out benefits; an apprenticeship committee establishing standards in skilled crafts; an organization owning and operating an office building containing union offices, meeting halls, auditoriums, recreation hall, shops and restaurants; and, payment for legal defense of law enforcement officer members. A labor organization that provided a savings plan for members did not qualify. The rationale is that the concept of "labor organization" implies that exempt activities must have a customary or traditional relationship to the purposes of a labor union. Merely promoting the economic benefit of members in their individual capacities is not sufficient. Citations to these examples are easily obtained in IRM 7751, EO Handbook, Chapter 500.

An issue that was recently under study by the Service concerns whether an organization that provides dues-financed prepaid legal services to members of a local of a tax-exempt labor organization is itself described under IRC 501(c)(5). The Service concluded that the provision of member-funded personal legal services to employee-members is an activity that will support exemption as a labor organization. The fact that a similar benefit is allowed under IRC 501(c)(9) does not preclude the activity from qualifying under IRC 501(c)(5). For a more detailed comparison between benefits allowed under IRC 501(c)(5) vs. IRC 501(c)(9), see the 1987 CPE text at page 206.

Another issue under consideration by the Service is whether an organization, the membership of which consists of retired employees, and which is formed to protect and increase its members' retirement benefits, may qualify for tax exemption as a labor organization described in IRC 501(c)(5). The Service has determined that one such organization may qualify for exemption because its activities are directed towards representing its membership of retired employees. The organization works to obtain increased retirement benefits and to protect members' retirement rights and benefits earned as a result of their service with a particular employer. Such activities are within the ambit of activities commonly or historically recognized as characteristic of labor organizations.

B. Agricultural Organizations

Application of the requirements for exemption of agricultural organizations, at first glance, appears to be as straightforward as that for labor organizations. Neither the Code, regulations, nor legislative history, however, provide much guidance as to the meaning of "engaged in agricultural pursuits". Thus, a rule of reasonableness has emerged through the years, and the term "agriculture" should be viewed in its generally accepted sense. Activities that only remotely promote

the interests of those engaged in agricultural pursuits will not qualify an organization for exemption.

In determining whether an organization is "engaged in agricultural pursuits," a common sense approach is warranted. For example, we must determine whether those who will ultimately benefit from the organization's activities are engaged in agricultural pursuits, as well as whether the objective is the improvement of the grade of the members' products.

In this vein, Rev. Rul. 81-59, 1981-1 C.B. 334, provides that a local association of farmers, that was formed to promote more effective agricultural pest control, and that employs pest management scouts who periodically inspect members' fields to identify and count agricultural pests and compile data on agricultural pest infestation, qualifies as an organization described in IRC 501(c)(5). Neither the organization nor the scouts perform any pest control or eradication services. The organization makes data collected by scouts available to all local farmers through the local county extension agent. It makes data available to farmers statewide through the program of the local university and nationwide through the program of the U.S. Department of Agriculture. Members of the organization receive individual benefits from the data collected on pest infestation in their own fields. However, these benefits are incidental to the objectives of the program as a whole, which are the betterment of the conditions of those engaged in agricultural pursuits and the improvement of the grade of their products, and are not inconsistent with those objectives. Here, the activities directly promote agricultural interests and the connection to agriculture is readily evident.

In contrast, the commercial marketing of livestock or other agricultural products for members is not an activity that directly relates to agricultural pursuits and is not within the ambit of IRC 501(c)(5) or the regulations. In Rev. Rul. 69-51, 1969-1 C.B. 159, the organization's purpose is to promote and improve the Angus breed of cattle. As one of its lesser activities, the organization regularly sells cattle for its members on a commission basis. The revenue ruling determined that such sales neither promote the betterment of conditions of cattle breeders nor improve the Angus breed generally, but are carried on for the convenience of members and the production of income. The ruling concludes that the organization's marketing of livestock for its members has no causal relationship to the performance of its exempt purpose, does not contribute importantly to the accomplishment of that purpose, and that such marketing therefore constitutes unrelated trade or business under IRC 513.

Yet, the sale of livestock is not necessarily per se unrelated to agricultural pursuits. For example, G.C.M. 38300 (March 6, 1980), analyzes an organization whose purpose is to promote the development of a particular breed of cattle. G.C.M. 38300 is discussed here for training purposes only and may not be cited as authority. In addition to other activities, the organization described in G.C.M. 38300 sponsors four sales of the breed every year in conjunction with such events as large fairs, cattle shows, and rodeos. By doing this the breed is exposed to a larger number of people than would ordinarily attend a sale. For the sales, members are asked to nominate from their stock animals that they have bred themselves and that meet certain age, weight, and health standards. Members must also provide information on the pedigree of each animal nominated as well as historical information on their herd operations. From these nominees, the animals sold are selected on the basis of their superior physical qualities and breeding potential. The organization limits the total number of animals to be sold in each sale and limits each member to two animals. These procedures are followed to ensure that the animals sold are outstanding representatives of the breed.

The G.C.M. concludes that, unlike the sales in Rev. Rul. 69-51, which appear to have been conducted as ordinary commercial sales, the sales in this case are subject to restrictions that are specifically designed to promote the breed sold by fortifying the bloodline and expanding it to breeders of other types of cattle. In addition, the limitation on the number of cattle each member may offer for sale at any auction indicates that the organization's sales are not intended merely to provide a marketing outlet for members' cattle, as was the case in Rev. Rul. 69-51.

These two contrasting situations indicate that whether an organization's sales of its members' products are activities furthering agricultural pursuits depends on the facts and circumstances of each individual case. Some factors that may be taken into account in making this determination include the forum in which sales are held, the frequency with which they are conducted, the number of livestock or amount of agricultural products individual members are entitled to sell, and the stringency of the criteria used to select the livestock or agricultural products offered for sale.

4. Recent Issues Affecting Exempt Status Under IRC 501(c)(6)

A. "Improvement of Business Conditions of One or More Lines of Business"

One of the more significant exemption issues to be litigated in recent years involves what is meant by the term "line of business". While the Service has

always accepted under this test associations whose membership is open to all persons or enterprises in a given industry, the Service has consistently opposed exemption for associations composed of members tied to a single manufacturer or corporation on the grounds that they comprise only a segment of a line of business. Examples of those denied exemption for failure to meet the "line of business" test include an organization of members who bottled a single brand of soft drink; an organization of members who held licenses to a single patented product; and, an organization made up of sellers who market a single brand of automobile. The Service position was upheld in the Supreme Court case of National Muffler Dealer's Association, Inc. v. U.S., 440 U.S. 472 (1979). Here, the Court held that an association of a particular brand name of muffler dealers does not qualify for exemption because the association is not engaged in the improvement of business conditions of a whole line of business.

In light of the Supreme Court ruling, the Service eventually published its position in Rev. Rul. 83-164, 1983-2 C.B. 95. This revenue ruling concludes that an organization whose members represent diversified businesses that own, rent, or lease computers produced by a single computer manufacturer does not qualify for exemption as a business league because it failed the "line of business" test.

The most recent litigation involving this issue is National Prime Users Group, Inc. v. U.S., 60 AFTR 2d 87-5564 (D. Md. 1987). Here, the court, citing National Muffler Dealers, held that the organization does not qualify for tax exempt status because it promoted the products of only one manufacturer rather than the entire industry. The court determined that the primary objective of the organization is to provide a method for the dissemination of information to and communication among users of Prime computers. The court found this evident from its name, its policy of commercialism, its corporate documents prior to amendment, its restricted membership to Prime users, and its consistent focus of its activities to Prime products and users. Its activities, the court found, provide a competitive advantage to Prime. The court also noted that NPUG's membership, purposes, and activities are virtually identical to the organization denied exemption by the Service in Rev. Rul. 83-164. Obviously, the Service's position is firm in the area of "line of business" and the courts are following our position. However, due to the history of litigation in this area, it is an issue of which to remain aware.

B. "Particular Services"

Another area with recent significant litigation involves the issue of performance of particular services for individual persons. One of the requirements

of a business league as defined in Reg. 1.501(c)(6)-1 is that its activities must be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. Thus, the concept of "particular services" becomes an issue by virtue of the failure of an organization to follow the requirements of the concept of "improvement of business conditions".

In MIB, Inc. v. Comm., 734 F. 2d 71 (1st Cir. 1984), the court determined that the second part of the key sentence - "as distinguished from the performance of particular services for individual persons" (emphasis added) - is a dispositive limitation upon the first part of the sentence ("It's activities should be directed to the improvement of business conditions of one or more lines of business..."). The court noted that a business league must not only improve the conditions of a line of business, but must do so in a way different from simply supplying products or services to its individual members.

The courts and the Service have not gone so far as to hold that no benefit may accrue to members of a business league by virtue of their membership. The ultimate inquiry is whether the association's activities advance the members' interests generally, by virtue of their membership in the industry, or whether they assist members in the pursuit of their individual businesses. In MIB, Inc., the court reversed the Tax Court, 80 T.C. 438 and held that MIB, Inc. was not exempt from income tax as a business league. The nonprofit corporation, established by the life insurance industry, provided a data bank and exchange service for certain information concerning the health and insurability of people who apply for life insurance. Its principal activity was the maintenance of a computerized system for gathering, storing and distributing to members, upon their request, confidential underwriting information, mainly health data. The information MIB gathers and disseminates is obtained exclusively from its member companies. The Tax Court found that the entire life insurance industry was aided by MIB's activities, with any service to members being incidental to this purpose. However, on appeal the court found that MIB's information exchange, developed around responding to individual member requests for data relevant to applicants seeking to buy insurance from that member, is a service that helps the member decide whether or not to sell insurance to the applicant. It is a service that clearly has commercial benefit to the individual member. The court indicated that while it may also confer a general benefit upon all members and act in the collective interest as a deterrent, the services are "particular services for individual persons".

Further authority in the area of "particular services" can be found in Engineers Club of San Francisco v. U.S., 791 F. 2d 686 (9th Cir. 1986), which reversed the District Court's finding that the Club met the requirements of IRC 501(c)(6) and qualified as a business league, 609 F. Supp. 519. The Court of Appeals held that the club, primarily composed of professional engineers and persons associated with the engineering profession, which provided a meeting place for its members to foster the development of the engineering profession and provided food and beverages, was not entitled to a business league classification under the Code. The court found that the food and beverage services, particularly the luncheon trade, were services performed for individual persons and organizations rather than the engineering profession as a whole. The court also noted that the club did not conduct specific programs directed to the improvement of business conditions of the engineering profession; rather it hosted the professional societies and groups to which its members belonged. The absence of such programs suggested to the court that any resemblance to a chamber of commerce or a board of trade was, at best, weak.

The Service recently reiterated its position on this issue of "particular services" in G.C.M. 39411 (September 18, 1985). G.C.M. 39411 is discussed here for training purposes only and may not be cited as authority. In G.C.M. 39411, the Service concluded that the administration and management of pension and welfare benefit plans pursuant to a collective bargaining agreement is not directed to the improvement of one or more lines of business, but rather constitutes the performance of particular services for individual members. Following the reasoning of the court cases cited, the G.C.M. sets out the following legal test: if a particular activity or service performed by the organization relieves the member of the necessity of securing the service commercially (or performing the service on an individual basis) in order to properly conduct the member's business, resulting in a convenience or economy to the member, the activity or service will be classified as a "particular service" for purposes of Reg. 1.501(c)(6)-1.

In G.C.M. 39411, the organization's activities consisted of administering an assessment formula (based on either man-hours and/or cargo tonnages), collecting, holding and investing the assessments and transferring such monies to various fringe benefit plans. Absent the establishment of the organization, each employer within the association would have been required to establish and maintain, pursuant to the collective bargaining agreement, its own fund. The organization therefore enabled its members to share certain administrative services among themselves that they otherwise would have had to purchase separately. Thus, the organization performs necessary services at reduced costs that constitute a

convenience and economy for its employer-members. The G.C.M. also pointed out that the services performed by the organization are readily available in the marketplace through commercial entities such as banks or data-processing firms.

Another example of an organization primarily performing particular services for its members can be found in Rev. Rul. 86-98, 1986-2 C.B. 74. The revenue ruling concluded that an individual practice association that provides health services through written agreements with health maintenance organizations does not qualify for exemption from federal income under IRC 501(a) and is not a social welfare organization described in IRC 501(c)(4) or a business league described in 501(c)(6). Membership in the organization is restricted to physicians who are subject to its written service contract. Thus, the organization does not better conditions for all physicians in a particular community, but instead, it is devoted to maximizing fees for its members. The billing and collection service provided by the organization for its members is an economy or convenience to its members relating to the operation of their private medical practices. The organization is primarily performing particular services for its members. It is not operated as a business league within the meaning of Reg. 1.501(c)(6)-1.

In situations where the performance of particular services for members is not the organization's primary activity, the income received is taxable as unrelated business income. Accordingly, in Steamship Trade Association of Baltimore, Inc. v. Comm., 81 T.C. 303 (1983), the tax court held that the performance of administrative services for members was not related to the Association's exempt function and was subject to unrelated business income tax. In this case, the Association's exempt purpose was the promotion of labor-management harmony between its members and unions in the Port of Baltimore. The organization also performed various administrative services with respect to the vacation pay and guaranteed annual income accounts provided for under the collective bargaining agreement. This included keeping track of how many hours each longshoreman worked for all of the employer-members; the computation of assessment rates to support the accounts; the collection of assessments from its members; the payments of benefits to eligible employees; and the accounting to the union with respect to these accounts. For these services, members were charged a fee based on the size of each employer-members hourly payroll.

The court determined that the administrative services were severable from the organization's activities as a contract negotiator and arbitrator and that they were not part of the exempt activities. The court noted that the members received a proportional benefit from this cost-sharing arrangement based on the amount that

each member utilized the services. The administrative services performed by the Association allowed the members to share collectively the costs of their individual liabilities under the collective bargaining agreement. Thus, the services rendered were essentially commercial in nature and unrelated to the exempt purposes of the Association.

An area currently under study by the Service involves nonprofit organizations that operate foreign-trade zones, as authorized by the Foreign-Trade Zones Act of 1934. The Act authorized the creation of the zones in or near ports of entry to stimulate foreign trade. The foreign-trade zone is an isolated, enclosed, and policed area where goods can be received, stored, mixed, manufactured, and reshipped without payment of duty. The authority to establish a foreign-trade zone is issued to an applicant by the Foreign-Trade Zones Board, a federal agency, which closely monitors the zone operations through the local District Director of Customs. Nonprofit organizations are formed by local business leaders and local and state government officials to apply to the Board for authority to establish and operate the zones. Organizations that are authorized to operate the foreign-trade zones are responsible for operating them as public utilities. In some instances, the nonprofit organization contracts with a commercial organization to perform the day-to-day operations of the zone. The operation of these zones attracts and enhances business and commerce in the communities where they are located.

The argument against exemption for the organization focuses on the manner of operation, which obviously, but unavoidably, furnishes particular services to businesses operating in the foreign trade zone as tenants. The argument for exemption, and the position currently followed by the Service, is that, although particular services are provided to the businesses in the zone, these services are an essential element in operating the zone and the purpose of the services is not to assist the businesses, but to provide for the successful operation of the one. The rationale underlying the favorable position is that the foreign-trade zone, regardless of the provision of services, promotes the economic interests of all businesses throughout the community.

In addition, the Service continues to study the subject of bank clearinghouses. The subject was discussed in the 1981 EOATRI text at p. 141. The same issues and concerns remain under consideration by the Service.

C. "Engaged in Business Ordinarily Conducted for Profit"

An issue greatly debated in recent years relates to insurance activities conducted by business leagues. The Service remains firm in its longstanding position that insurance-related activities conducted by tax-exempt business leagues are profit-making business activities. They are not exempt activities described in IRC 501(c)(6). Published precedent for the Service's position can be found in Rev. Rul. 81-174, 1981-1 C.B. 335 and Rev. Rul. 81-175, 1981-1 C.B. 337. These two revenue rulings provide that state-mandated associations of insurance companies formed to provide high risk automobile and medical malpractice insurance are organizations engaged in "business of a kind ordinarily carried on for profit" within the meaning of Reg. 1.501(c)(6)-1, and therefore, do not qualify for exemption under IRC 501(a) as described in IRC 501(c)(6).

The courts continue to follow the Service's lead on his issue. In North Carolina Association of Insurance Agents, Inc. v. U.S., 739 F.2d 949 (4th Cirl 1984), the Court of Appeals held that the Association, the state's sole insurance agent of record, was engaged in business ordinarily conducted for profit, since, but for the corporation's unique status as sole lawful agent, for-profit businesses could and would be performing similar functions. Hence, the corporation was not a tax-exempt "business league", nor were the insurance activities merely "incidental to" the performance of its tax-exempt purposes.

The Association's purposes were to promote and assist educational programs and institutions generally and particularly in the fields of insurance, highway safety, fire and accident prevention, and to write insurance policies covering the needs and properties of the State of North Carolina on a commission basis. The Association acted under North Carolina statutes as the exclusive insurance agent for the state. Its primary activity involved servicing the state's insurance needs. Thus, the court reasoned that because the Association acts as the state's insurance agent, writing policies in much the same way as would any other insurance broker, it is "engaged in a regular business of a kind ordinarily conducted for profit" and does not qualify for tax exempt status.

Similarly, where an organization described in IRC 501(c)(6) provides group insurance to its members, but not as its primary activity, the Service considers income from the insurance activity to be unrelated business income. Again, recent litigation has favored the Service position, with the 4th, 5th, 6th, and 7th circuits holding in our favor. See, Carolina Farm & Power Equipment Dealers Association v. U.S., 699 F.2d 167 (4th Cir. 1983); Louisiana Credit Union League v. U.S., 693 F.2d 525 (5th Cir. 1982); Professional Insurance Agents of Michigan v. Comm., 726 F.2d 1097 (6th Cir. 1984); and, Illinois Association of Professional Insurance

Agents, Inc. v. U.S., 801 F.2d 987 (7th Cir. 1986). For a more in-depth discussion of insurance activities of exempt organizations, see the 1986 CPE text at page 46.

D. Funding Issues

To be considered exempt from taxation as described in IRC 501(c)(6), the organization must be primarily engaged in activities that are the basis for exemption. Some "nonexempt" activities will not prevent an organization from qualifying for exemption so long as the organization remains a membership organization primarily engaged in IRC 501(c)(6) activities. This means that a majority of the organization's activities must be considered proper IRC 501(c)(6) activities.

G.C.M. 39108 (December 23, 1983) indicates that an organization is not necessarily disqualified from exemption, however, merely because it receives more than 50 percent of its income from unrelated trade or business, so long as it remains a membership organization. G.C.M. 39108 is discussed here for training purposes only and may not be cited as authority. Whether an organization is a "membership organization", according to the G.C.M., is determined in part by the level of member-derived income. However, even if member-derived income is less than 50 percent of an organization's support, other factors may indicate that the organization receives a meaningful degree of membership support.

In general, exemption should be denied if the organization has developed a history of deriving its principal support from sources unrelated to its exempt purpose and has not demonstrated a meaningful history of support from membership dues and income from activities related to its exempt purpose. Thus, the continued exemption of a trade association that derives the primary part of its income from nonrecurring unrelated activity may be appropriate. This principal would also permit the exemption of an organization that has as its principal source of support a recurring unrelated activity, but that has other sources of income and activities that indicate that the organization is operated and supported by the membership.

There are basic guidelines that may be useful in determining whether the requisite "meaningful" membership support exists. First, unrelated income should be excluded in measuring the extent of membership support. Any income derived from the performance of the organization's exempt functions or from "substantially related" activities should be treated as membership income. Second, contributions or gifts from the general public should be treated as membership income. A

"meaningful" test should compare the sources of income, the amount of membership participation in related activities, and the extent to which unrelated activities are pursued. At the least, however, an organization should establish that it receives enough member-derived income so that it may in fact be considered to be membership supported and that it does not exist independently of members' participation.